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**F** **(1) CD-R containing (7) audio files of radio transmissions from the incident and (5) audio files containing 911 phone calls related to the incident**

**MISCELLANEOUS DOCUMENTS**

Statute Extension per Governor Gavin Newsome's Executive Order (N-40-20)

Copy of Deputy [redacted] Training Records

Copy of Suspect Pedro Garcia's Consolidated Criminal History Report

Signed Administrative Rights Force/Shooting Forms




LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

JAMES GARRISON • Director

January 29, 2020

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Pedro Garcia
J.S.I.D. File #18-0268
L.A.S.D. File #018-08014-0560-052

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 28, 2018, non-fatal shooting of Pedro Garcia by Deputy [redacted] of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy [redacted], #[redacted]

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# MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Pedro Garcia
J.S.I.D. File #18-0268
L.A.S.D. File #018-08014-0560-052

DATE: January 29, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 28, 2018, non-fatal shooting of Pedro Garcia by Los Angeles County Sheriff's Department (LASD) Deputy [redacted] We have concluded that Deputy [redacted] acted in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of the shooting on June 28, 2018, at approximately 9:23 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LASD Lieutenant Scott Hoglund.

The following analysis is based on reports, recorded interviews, and photographs submitted to this office by the LASD Homicide Bureau. No compelled statements were considered in this analysis.

## FACTUAL ANALYSIS

On June 28, 2018, at approximately 8:40 a.m., Deputy [redacted] was working in uniform as a single-man unit driving a marked black and white police vehicle. He responded to a call of a shirtless man carrying a knife, bleeding from his face, and running in and out of traffic in the area of Rosemead Boulevard and Bruin Avenue. Deputy James Johnson, also in uniform and driving a marked black and white vehicle, responded to the call as well.

[redacted] traveled southbound on Rosemead Boulevard, followed by Johnson. Both deputies parked their respective vehicles facing south on Rosemead Boulevard adjacent to the west curb line and exited their vehicles. [redacted] looked into the area of a trailer park located on the west side of Rosemead Boulevard attempting to locate the subject of the call, and saw Garcia exiting from a trailer door. [redacted] pointed to Garcia to indicate Garcia's location to Johnson. Garcia was shirtless and bleeding from his face. Based upon his appearance, [redacted] initially believed Garcia was the victim of an assault.

Garcia walked to the front of his vehicle, standing in the area in front of the engine just east of the west curb. Garcia walked around a parked grey Nissan and both [redacted] and Johnson saw Garcia was holding a knife in his right hand. Garcia raised his right hand and held the knife above his head in a stabbing position. [redacted] drew his firearm and advised dispatch he was detaining a suspect with a knife at gunpoint. Johnson went to his patrol vehicle, retrieved his Taser, and walked between the patrol vehicles onto the sidewalk to deploy the Taser. [redacted] ordered Garcia to drop the knife. Garcia shook his head and stated, "No!" [redacted] then repeatedly ordered him to drop the knife. Garcia pounded on his chest with his free hand in response. [redacted] told Garcia he was not going to shoot him and again ordered him to put down the knife.

Garcia did not drop the knife and instead advanced toward [redacted] closing the distance between them. After a few steps, Garcia rapidly increased his pace. In response, [redacted] repeatedly ordered Garcia to "Stop!" and "Drop the knife!" Johnson drew his service weapon, still holding his Taser in his other hand. [redacted] retreated back along the driver's side of his patrol vehicle, but could not retreat further east due to traffic on Rosemead Boulevard. Garcia continued to advance toward [redacted] with the knife. [redacted] stated he "was afraid and believed if I gave him another second or two, he was going to stab me."[1] In fear for his life, [redacted] fired his duty weapon three times, wounding Garcia.[2] Garcia fell face-down onto the ground.

Garcia held onto the knife while on the ground as assisting units began to arrive. The assisting deputies also ordered Garcia to drop the knife. Garcia shook his head no. Ultimately, Garcia complied and was placed under arrest. Johnson kicked the knife away from Garcia. Deputies rendered aid until paramedics arrived and transported Garcia to Los Angeles County USC Medical Center. Garcia suffered a gunshot would to his left shoulder which traveled downward and punctured his lung. He also sustained a gunshot wound to his right tibia. Garcia survived his injuries.[3]

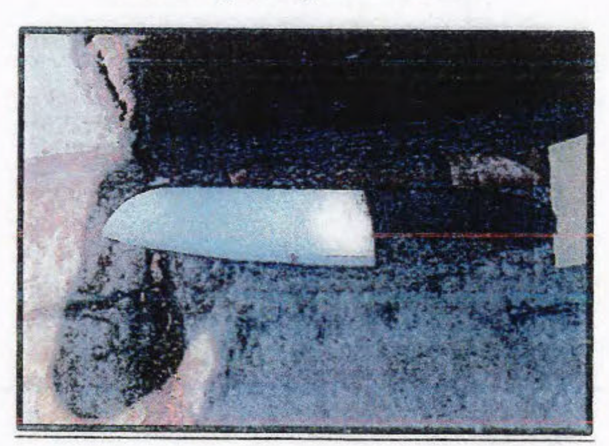
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[1] At the time he fired, [redacted] estimated the distance between him and Garcia to be 20 feet. Johnson believed the distance between them was 18 to 20 feet.

[2] Johnson was in the process of raising his firearm and lowering his Taser at the time [redacted] discharged his weapon. Johnson described Garcia as being intently focused on [redacted] and unaware of Johnson's presence. Johnson stated that Garcia "started charging" at [redacted] just prior to [redacted] discharging his weapon.

[3] While at the hospital, Garcia told a deputy that voices in his head told him to cut himself. Garcia stated that he is bipolar and did not take his medication.

*Photo depicting the OIS scene*

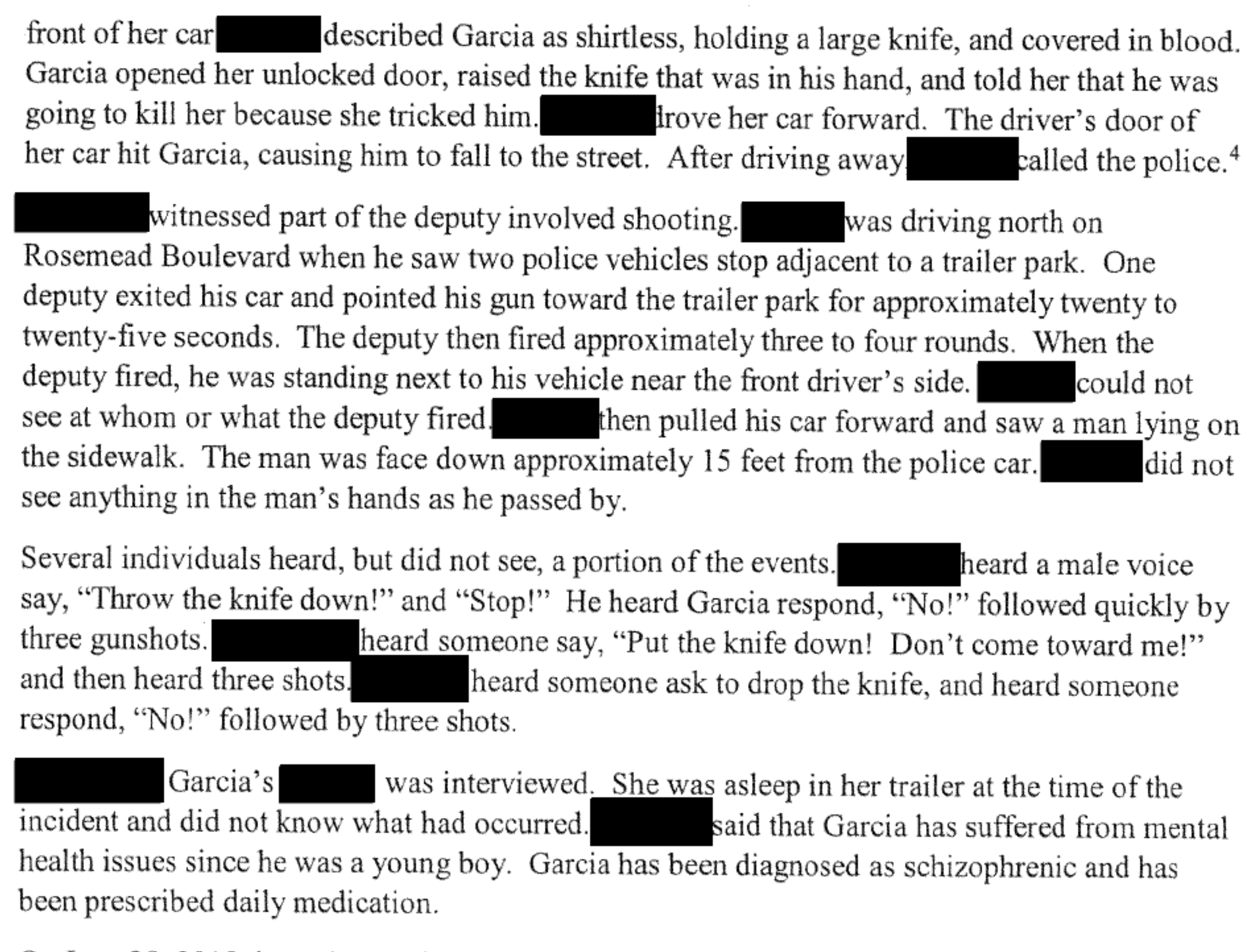


*Garcia's knife*

Garcia was armed with a Santoku style kitchen knife. The blade of the knife measured approximately eight inches.

[redacted] was armed with a Sig Sauer P226 [redacted] 9mm semiautomatic handgun which he told investigators was loaded to maximum capacity of 21 rounds. After this incident, [redacted] firearm was loaded with 18 rounds. Three 9mm cartridge casings were located in the area in which [redacted] fired his duty weapon. [redacted] fired his weapon three times.

The investigation revealed that prior to the authorities being notified, Garcia left the residential area of the trailer park and entered Rosemead Boulevard armed with a knife and bleeding from his face. [redacted] was driving her red Nissan on Rosemead Boulevard when Garcia stepped in



front of her car [redacted] described Garcia as shirtless, holding a large knife, and covered in blood. Garcia opened her unlocked door, raised the knife that was in his hand, and told her that he was going to kill her because she tricked him. [redacted] drove her car forward. The driver's door of her car hit Garcia, causing him to fall to the street. After driving away [redacted] called the police.[4]

[redacted] witnessed part of the deputy involved shooting. [redacted] was driving north on Rosemead Boulevard when he saw two police vehicles stop adjacent to a trailer park. One deputy exited his car and pointed his gun toward the trailer park for approximately twenty to twenty-five seconds. The deputy then fired approximately three to four rounds. When the deputy fired, he was standing next to his vehicle near the front driver's side. [redacted] could not see at whom or what the deputy fired. [redacted] then pulled his car forward and saw a man lying on the sidewalk. The man was face down approximately 15 feet from the police car. [redacted] did not see anything in the man's hands as he passed by.

Several individuals heard, but did not see, a portion of the events. [redacted] heard a male voice say, "Throw the knife down!" and "Stop!" He heard Garcia respond, "No!" followed quickly by three gunshots. [redacted] heard someone say, "Put the knife down! Don't come toward me!" and then heard three shots. [redacted] heard someone ask to drop the knife, and heard someone respond, "No!" followed by three shots.

[redacted] Garcia's [redacted] was interviewed. She was asleep in her trailer at the time of the incident and did not know what had occurred. [redacted] said that Garcia has suffered from mental health issues since he was a young boy. Garcia has been diagnosed as schizophrenic and has been prescribed daily medication.

On June 28, 2018, investigators interviewed Garcia while in the intensive car unit at USC Medical Center. Garcia appeared to fade in and out of consciousness during the interview, and much of what he said was disjointed and incoherent. Garcia said he injured himself with a weight. He had not taken his medication and was hearing voices. The voices told him to get someone. He had the knife because people wanted to beat him. Garcia did not remember trying to get into cars on Rosemead Boulevard. When the deputies told him to drop the knife, he believed they were talking to someone else. When the deputies told him to raise his hands, he thought they were joking.

Based upon his actions in this incident, Garcia was charged with a violation of Penal Code section 245(c), assault upon a peace officer. Proceedings have been suspended and the matter is being heard in Department 95.

## LEGAL ANALYSIS

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to

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[4] [redacted] also saw Garcia in the street. He observed as Garcia attempted to reach into the partially open window of a red vehicle using the hand that was holding a knife. The red car drove away. [redacted] also saw Garcia, shirtless and with blood on his face, as he ran from the trailer park carrying a knife in his hand. While holding the knife, he walked into traffic, causing a red sedan to stop. Garcia banged on the driver's side window of the red vehicle. [redacted] described Garcia as being "aggressive" and called the police.

evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

According to the law in California, a person acted in lawful self-defense if (1) he reasonably believed that he was in imminent danger of being killed or suffering great bodily injury; (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505. The People have the burden of proving beyond a reasonable doubt that a person did not act in lawful self-defense or defense of another. If the People fail to meet this burden, a jury must find the defendant not guilty. CALCRIM No. 3470.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight…The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

The evidence examined in this case shows that Deputy [redacted] responded to a call of a man with a knife, bleeding from his face, running in and out of traffic. When [redacted] arrived at the location he saw Garcia, who fit the description of the individual described in the call. After initially believing that [redacted] may be an assault victim, Garcia saw the knife in his hand. [redacted] repeatedly ordered Garcia to, "Drop the knife!" Garcia refused to drop his weapon, and quickly moved toward [redacted] [redacted] who was standing in a lane of traffic on Rosemead Boulevard, initially retreated. Garcia continued to approach and closed the distance between them to approximately 20 feet. Given Garcia's increasingly rapid approach and [redacted] inability to retreat due to traffic behind him, [redacted] believed Garcia would be within stabbing distance imminently. Given Garcia's actions, [redacted] believed that Garcia was going to stab him. Reasonably in fear for his life, [redacted] fired three shots from his duty weapon, wounding Garcia.

**CONCLUSION**

We conclude that Officer [redacted] was placed in reasonable fear of death or great bodily injury by Pedro Garcia's actions, and acted lawfully in self-defense at the time he fired his weapon. We are therefore closing our file and will take no further action in this matter.